



Item No: 19.2
 File No: 7.69.3.8
 Date: 19 August 2019
 Attachment: A, B

Meeting: Council

Title: Donnelly (Watson Car Park) Discretionary Rebate Request

Responsible Manager: Chief Executive Officer, Kiki Magro

Author: Group Manager, Katy Bone

Key Focus Area 2: Sustainable and resilient future

Type of Report: **Decision Required**

Pursuant to Section 83(5) of the *Local Government Act 1999*, the Chief Executive Officer indicates that the matter contained in this report may, if the Council so determines, be considered in confidence pursuant to Section 90(2) of the *Local Government Act 1999* on the basis that the information contained in the attached report is information of the nature specified in subsections 90(3) (a) of the Act namely information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

Recommendation (Public)

Pursuant to s90(3)(b)

Pursuant to Section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except the Chief Executive Officer Kiki Magro, Group Manager Asset & Infrastructure Josh Bowen, Group Manager Planning, Environment & Regulatory Services Andreea Caddy, Group Manager Corporate Services Katy Bone, Group Manager Customer Experience Danielle Garvey, Manager Marketing & Communications Sonia DeNicola, Manager Community Development & Engagement Fiona Deckert, Business Analyst (Property & Contracts) Scott Reardon and Council Secretariat Vanessa Davidson, be excluded from attendance at the meeting for Agenda Item 'Donnelly (Watson Car Park) Discretionary Rebate Request'.

The Council is satisfied that, pursuant to section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

Recommendation (Confidential)

That the Council accepts Ms Louise Donnelly's request for a discretionary rebate for the financial year ending 30 June 2020 for the amount of \$1,193.00.

Recommendation (Public)

Pursuant to s.91(7)

That having considered Agenda Item 'Donnelly (Watson Car Park) Discretionary Rebate Request' in confidence under section 90(2) and (3)(b) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report and attachments relevant to this Agenda Item be retained in confidence until the matter is resolved, excepting that the Council authorises the release of the Council resolution to those parties identified in the substantive resolution relating to this Agenda Item to enable enactment of the resolution and that pursuant to Section 91(9)(c) of the *Local Government Act 1999* the Council delegates to the Chief Executive Officer the review and power to revoke this Order;

and

That Council resolves to end its confidential deliberations pursuant to Section 90(2) of the *Local Government Act 1999* and re-admit the public.

Summary

Ms Louise Donnelly owns two properties at 33 Warwick Street, Walkerville (The Watson). These are lots 328, a residential apartment with a capital value of \$178,000 and lot 2046 a car park valued at \$9,200.

These properties are billed individually as they have separate 'Certificates of Title' and are not contiguous. Lot 328 is charged at the residential rate (0.0022738) but qualifies for the minimum rates charge of \$1,193.00. Lot 2046 is charged at the non residential rate (0.0037517) and also attracts the minimum charge of \$1,193.00, leading to a total rates charge of \$2,386.00.

The owner of the properties is requesting a discretionary rebate such that the net rates charge for the two properties would be the equal to the rates charged if the properties were contiguous.

Background

Local Government Act 1999

Section 149—Contiguous land

For the purposes of this Part, land will be regarded as being contiguous to other land if the land—

- (a) abuts on the other land at any point; or*
- (b) is separated from the other land only by—*
 - (i) a road, street, lane, footway, court, alley, railway or thoroughfare; or*
 - (ii) a watercourse or channel; or*
 - (iii) a reserve or other similar open space.*

158—Minimum rates and special adjustments for specified values

- (1) A council can do one or both of the following:*
 - (a) fix a minimum amount payable by way of rates or charges under this Part (which may vary according to factors prescribed by the regulations);*
- (2) However—*

(c) if two or more pieces of contiguous rateable land are owned by the same owner and occupied by the same occupier, a minimum amount may only be imposed against the whole of the land and not against individual pieces of it; and...

166—Discretionary rebates of rates

(1) A council may grant a rebate of rates or service charges in any of the following cases (not being cases that fall within a preceding provision of this Division):...

...(b) where the rebate is desirable for the purpose of assisting or supporting a business in its area;

(j) where the land is being used by an organisation which, in the opinion of the council, provides a benefit or service to the local community;

(m) where the rebate is considered by the council to be appropriate to provide relief in order to avoid what would otherwise constitute—

(i) a liability to pay a rate or charge that is inconsistent with the liabilities that were anticipated by the council in its annual business plan; or

(ii) a liability that is unfair or unreasonable;...

...(2) A rebate of rates or charges under subsection (1) may be granted on such conditions as the council thinks fit.

(3) A rebate of rates or charges under subsection (1)(a), (b) or (k) may be granted for a period exceeding one year, but not exceeding 10 years.

(3a) A rebate of rates or charges under subsection (1)(l) may be granted for a period exceeding one year, but not exceeding three years.

Discussion/Issues for Consideration

The owner of the properties is requesting a discretionary rebate such that the net rates charge for the two properties would be the equal to the rates charged if the properties were contiguous, this would be as follows;

Current charge	2,386.00
Requested charge	1,193.00

Rebate (difference)	1,193.00

To do this we take the capital value of the two properties combined and apply the residential rate in the dollar (0.0024423). We use the residential rate as it is likely that if the two properties were contiguous the Council would categorise the lot 2044 (the car park) as residential. If it is appropriate to charge the minimum rate it will only be charged once across all the properties that are contiguous.

The rates charged if contiguous would be;

Capital Value	\$
Lot 328	178,000
Lot 2046	9,200

	187,200
Rate in the dollar	0.0022738
Preliminary rates	425.65
Actual rate	\$1,193.00 (this is the minimum)

Applying the discretionary rebate as requested provides the following;

	\$
Current charge	2,386.00
Requested charge	1,193.00

Rebate (difference)	1,193.00

Rating Policy

Councils rating policy states;

'Council has the discretion to rebate any percentage of rates for a number of other purposes, such as:

- *securing proper development of an area;*
- *assisting or supporting a business;*
- *preservation of historically significant places;*
- *facilities or services for children or young persons; or*
- *accommodation for the aged or persons with disability; or*
- *other purposes.'*

Council Policy also states that;

'Persons or bodies which seek a discretionary rebate will be required to submit an application form to the Council and provide to the Council such information as stipulated on the application form as well as any other information that the Council may reasonably require.'

When considering these applications Council's Policy requires that;

'Decisions on these applications must be carefully considered and upon receipt of an application for a discretionary rebate, Council will take into account:

- *why there is a need for financial assistance through a rebate;*
- *the level of rebate being sought;*
- *the extent of financial assistance, if any, being provided in respect of the land by Commonwealth or State agencies;*
- *whether, and if so to what extent, a ratepayer is providing a service within the Council area;*
- *whether the ratepayer is a public sector body, a private not for profit body or a private or profit body;*
- *the nature and extent of Council services provided in respect of the land, in comparison to services provided elsewhere in the Council's area;*
- *the community need, if any, that is being met by activities carried out on the land;*
- *the extent to which activities at the land provide assistance or relief to disadvantaged persons;*
- *the desirability of granting a rebate for more than one year;*
- *consideration of the full financial consequences of the rebate for the Council;*
- *the time the application is received;*
- *whether you may be eligible for a Council community grant;*
- *any other matters and policies of the Council, which the Council considers relevant.*

Council's Policy also contains a section that was included specifically to help address the issues created by the structure of ownership at The Watson;

‘The Council may grant a discretionary rebate where two non-contiguous titles form a single residential. In those circumstances, Council may grant a rebate subject to further conditions. For example, in consideration for the grant of such a rebate and to avoid two non-contiguous titles from being sold independently, an applicant may be required to grant Council a caveatable interest over the relevant title (or titles). Any such conditions will be at the discretion of Council.’

Council does has the power to grant rebates for periods of up to three years, however consideration should be given to potential changes in ownership before doing so. It is on this basis, that Administration has consistently recommended that discretionary rate rebates be considered on an annual basis.

Options for Consideration

Option 1

That the Council accepts Louise Donnelly’s request for a discretionary rebate for the financial year ending 30 June 2020 for an amount of \$1,193.00.

Option 2

That Council agrees to grant a different discrestionary rebate in the amount of \$xxx.

Option 3

That Council rejects the request to grant a discretionary rate rebate.

Analysis of Options

Options 1 is in line with our current rating policy and past practice.

Financial and Governance Implications

Generally, the granting of a discretionary rebate will decrease rate revenue received by the Council. However, the budget for the financial year 2019/20 incorporates some provision for the granting of discretionary rebates and is based on those granted in the financial year 2018/19, which includes this request.

Preferred Option & Reasoning

Option 1 is recommended to Council. It is consistent with the Council’s past decisions made in 2018/19 as they relate to the treatment of the Watson car parks and in particular this specific application.

Attachments

Attachment A	Rate Rebate Application Form
Attachment B	Rating Policy